

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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NEWMARK GROUP, INC., G&E
ACQUISITION COMPANY, LLC, and BGC
REAL ESTATE OF NEVADA, LLC,

Plaintiffs,

v.

AVISON YOUNG (CANADA) INC.;
AVISON YOUNG (USA) INC.; AVISON
YOUNG-NEVADA, LLC, MARK ROSE,
THE NEVADA COMMERCIAL GROUP,
JOHN PINJUV, and JOSEPH KUPIEC; DOES
1 through 5; and ROE BUSINESS ENTITIES
6 through 10,

Defendants.

Case No. 2:15-cv-00531-RFB-EJY

ORDER

Pending before the Court is the Letter to Magistrate Judge ... Regarding Responsiveness
Objections to the Special Master's Final Report. ECF No. 586. The Court has considered the Letter
as well as Plaintiff's Response (ECF No. 590).

In sum, the Letter argues that 31 documents designated by the Special Master as responsive
under his appointment are, in fact, nonresponsive. ECF No. 586. Plaintiffs argue that "[d]ocuments
... the Special Master identified as 'Responsive' are relevant to this case." ECF No. 590 at 3.
Plaintiffs cite the broad scope of discovery and the "liberal discovery principles of the Federal
Rules." *Id.* at 2-3.

The scope of discovery for purposes of the Special Master review was defined in the Order
of Appointment. ECF No. 578. Paragraph 5 states:

Judge Hoffman will review the Krugman Documents to determine whether they are
Responsive and whether they are privileged or contain attorney work-product. Judge
Hoffman will make a Responsive or "Nonresponsive" (defined below) determination
for each document. Documents falling within any of the following categories will be
deemed Responsive for purposes of this review: (a) any document sent by, received by
cc'd or bcc'd to Kim Krugman at her Grubb & Ellis email account pertaining to (i)
Grubb & Ellis and/or its personnel (including independent contractors, customers, or
clients) in the State of Nevada or (ii) operations or personnel in the State of Nevada

1 even if also applicable to Grubb & Ellis operations elsewhere (such as an employee
2 handbook or training materials) or (b) any documents about how Grubb & Ellis
3 documents in Krugman's Avison Young custodial files were transferred from
Grubb & Ellis to Avison Young. Any documents not identified as Responsive
are deemed "Nonresponsive."

4 *Id.* The undersigned, who is thoroughly versed in the facts of this dispute, reviewed each page of
5 the 31 documents in dispute. None of the documents, nor any portion of any one or more pages of
6 any of the documents, falls within the definition of "Responsive" established for the Special Master's
7 review. None of the documents pertain to "Grubb & Ellis and/or its personnel (including independent
8 contractors, customers, or clients) in the State of Nevada or ... operations or personnel in the State of
9 Nevada even if also applicable to Grubb & Ellis operations elsewhere." None of the documents address
10 "how Grubb & Ellis documents in Krugman's Avison Young custodial files were transferred from Grubb
11 & Ellis to Avison Young." While the Court understands discovery is generally broad, the breadth of
12 discovery addressed by Judge Hoffman as a special master was expressly defined.

13 Accordingly, IT IS HEREBY ORDERED that Defendants' objection to the Special Master's
14 designation of the 31 at-issue documents as "Responsive" is SUSTAINED. These documents will not
15 be produced. Each and all, whether in whole or in part, fail to meet the definition of "Responsive"
16 established by the Appointment of the Special Master.

17 DATED this 30th day of July, 2022.

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ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE